RNI No. **KARBIL/2001/47147**

ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೮ **Volume 148**	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಏಪ್ರಿಲ್ ೪, ೨೦೧೩ (ಚೈತ್ರ ೧೪, ಶಕ ವರ್ಷ ೧೯೩೪) **Bangalore, Thursday, April 4, 2013 (Chaithra 14, Shaka Varsha 1934)**	ಸಂಚಿಕೆ ೧೪ **Issue 14**

ಭಾಗ ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 2 ಕೇನಿಪ್ರ 2013, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 22ನೇ ಜನವರಿ, 2013.

2012ನೇ ಸಾಲಿನ 08–10–2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(ii) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O. 2390(E) ದಿನಾಂಕ : 08–10–2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF POWER

NOTIFICATION

New Delhi, the 8th October, 2012

S.O. 2390(E) :-In exercise of the powers conferred by sub-para 3.2 of Para 3 of the Guidelines circulated under Section 63 of the Electricity Act, 2003 (No.36 of 2003) the Central Government hereby appoints the following Bid-Process Co-ordinators (BPCs) for the Transmission Projects, as shown against the name of each Transmission Project:

Sl. No.	Name of Transmission Project	Name of Bid Processing Coordinator
1	**Baira Siul HEP– Sarna 220 kVline** (i) Baira Siul HEP – Sarna 220 kV D/C line	REC Transmission Projects Company Limited
2	**ATS of Unchahar TPS** (i) Unchahar – Fatehpur 400 kV D/C line	REC Transmission Projects Company Limited
3	**Transmission System for connectivity for NCC Power Projects Ltd. (1320 MW)** (i) NCC Generation switchyard- Nellore Pooling Station 400 kV D/C (Quad) line	REC Transmission Projects Company Limited
4	**Transmission System required for evacuation of power from Kudgi TPS (3X800 MW in Phase-I) of NTPC Limited** (i) Kudgi TPS-Narendra (New) 400 kV 2xD/C quad lines (ii) Narendra (New) – Madhugiri 765 kV D/C line (iii) Madhugiri – Bidadi 400 kV D/C (quad) line	REC Transmission Projects Company Limited

Sl. No.	Name of Transmission Project	Name of Bid Processing Coordinator
5	**Transmission System for Patran 400 kV S/S** (i) Creation of 2x500 MVA, 400/220 kV Substation at Patran (ii) LILO of both circuits of Patiala-Kaithal 400kV D/C at Patran (Triple snow Bird Conductor) (iii) 400 kV Bays (iv) 200 kV Bays (v) Space for spare Bays	PFC Consulting Limited
6	**Part ATS of RAPP U-7&8 in Rajasthan** (i) RAPP – Shujalpur 400 kV D/C line	PFC Consulting Limited
7	**Eastern Region System Strengthening Scheme-VII** (i) Purulia PSP(WB) – Ranchi(PG) 400 kV D/C line (ii) Kharagpur(WBSTCL) – Chaibasa(PG) 400 kV D/C line	PFC Consulting Limited
8	**Eastern Region System Strengthening Scheme-VI** (i) Establishment of 400 kV GIS each at Darbhanga and Motihari (ii) 400/132 kV 2x200 MVA ICTs at Motihari	PFC Consulting Limited

2. The appointments of the Bid-Process Co-ordinators (BPCs) are subject to the conditions laid down in the Guidelines.

[F.No.15/1/2011-Trans]
ARUNKUMAR, Director

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್.ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 11
SC - 20

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 3 ಕೇನಿಪ್ರ 2013, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 22ನೇ ಜನವರಿ, 2013.

2012ನೇ ಸಾಲಿನ 28–09–2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(i) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R. 732(E) ದಿನಾಂಕ: 28–09–2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF FINANCE
(Department of Revenue)
NOTIFICATION
New Delhi, the 28TH Septemper, 2012
No. 47/2012-Service Tax

G.S.R. 732(E) :-In exercise of the powers conferred by sub-section (1) read with sub-section (2) of Section 94 of the Finance Act, 1994, (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely :-

1. (1) These rules may be called the Service Tax (Fourth Amendment) Rules, 2012.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Service Tax Rules, 1994, in rule 7, in sub-rule (2), the following proviso shall be inserted, namely:-

"Provided that the Form 'ST-3' required to be submitted by the 25th day of October, 2012 shall cover the period between 1st April to 30th June, 2012 only."

[F.No.341/21/2012-TRU]
RAJKUMAR DIGVIJAY, Under Secy.

Note: The principal rules were published in the Gazette of India, Extrordinary, Part II, Section 3, Sub-section (i) vide notification No. 2/94-ST, dated the 28th June, 1994 vide number G.S.R.546 (E), dated the 28th June, 1994 and were last amended by notification No. 46/2012-Service Tax, dated the 7th August, 2012, vide G.S.R.622(E), dated the 7th August, 2012.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್.ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 12
SC - 20

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 4 ಕೇನಿಪ್ರ 2013, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 22ನೇ ಜನವರಿ, 2013.

2012ನೇ ಸಾಲಿನ 15-10-2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(i) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R. 763(E) ದಿನಾಂಕ: 15-10-2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 15TH October, 2012

G.S.R. 763(E) :-In exercise of the powers conferred by sub-sections (1), (2), (5) and (8) of section 25 and sub-section (2) of section 609 of the Companies Act, 1956, (1 of 1956), the Central Government hereby makes the following regulations further to amend the Companies Regulations, 1956 namely :-

1. (1) These Regulations may be called the Companies (Amendment) Regulations, 2012.

(2) They shall come into force with effect from the 15th October, 2012.

2. In the Companies Regulations, 1956, in regulation 2, in clause (d)-

(i) for serial number (v) and the entries relating thereto, the following serial number and entries shall be substituted namely:-

(1)	(2)	(3)
"(v) Regional Director	Eastern Region Directorate Headquarter at Kolkatta	States of West Bengal, Bihar, Jharkhand and Orissa,";

(ii) after serial number (vi) and the entries relating thereto, the following serial number and entries shall be inserted namely:-

(1)	(2)	(3)
"(vii) Regional Director	North Eastern Region Directorate Headquarter at Guwahati	Meghalaya, Assam, Arunachal Pradesh, Nagaland, Mizoram, Manipur and Tripura.".

[F.No.5/18/2005-CL.-V]
RENUKA KUMAR, Jt. Secy.

Note: The principal regulations were published in the Gazette of India vide number S.R.O. 432 (B), dated 18th February, 1956 and subsequently amended by :-

1. No. GSR 188dated 9-1-1958
2. No. GSR 399dated 24-3-1962
3. No. GSR 1850dated 1-12-1966
4. No. GSR 1445dated 16-9-1967
5. No. GSR 668dated 10-06-1973
6. No. GSR 523dated 11-7-1989
7. No. GSR 367 (E)dated 31-5-1991
8. No. GSR 924 (E)dated 14-12-1992
9. No. GSR 610 (E)dated 23-9-2005
10. No. SO 1291 (E)dated 30-7-2007
11. No. GSR 866 (E)dated 29-10-2010
12. No. GSR 304 (E)dated 6-4-2011
13. No. GSR 453 (E)dated 14-06-2011
14. No. GSR 887 (E)dated 16-12-2011

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್.ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 13
SC - 20

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 6 ಕೇನಿಪ್ರ 2013, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 22ನೇ ಜನವರಿ, 2013.

2012ನೇ ಸಾಲಿನ 05–10–2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(i) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R. 745(E) ದಿನಾಂಕ: 05–10–2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, the 05TH October, 2012

G.S.R. 745(E) :-In exercise of the powers conferred by section 6A read with section (1) of section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme further to amend the Employees' Pension Scheme, 1995 namely :-

1. (1) This Scheme may be called the Employees` Pension (Amendment) Scheme, 2012.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Employees` Pension Scheme, 1995 (hereinafter referred to as the principal Scheme), under paragraph 43A relating to special provisions in respect of International Workers,-

(a) in paragraph 2 of the principal Scheme, as modified by sub-para (2) of aforesaid paragraph 43A, clause (xv) shall be omitted;

(b) after sub-para (4) of aforesaid paragraph 43A, the following sub-para shall be inserted, namely:-

' (4A) For paragraph 9 of the principal Scheme, the following paragraph shall be substituted, namely:-

"9. Determination of eligible service in respect of International Workers,- The eligible service shall be determined as follows:

(i) in the case of the "existing member" or the "new entrant", the "actual service" shall be treated as eligible service.

(ii) in the case of the member covered by as social security agreement, the period of coverage under relevant social security programme in another country shall be added to actual service and the aggregate thereof shall be treated as eligible service as may be provided in the social security agreement.";

(c) in paragraph 10 of the principal Scheme, as modified by sub-para (5) of the aforesaid paragraph 43A, sub-paragraph (1) shall be omitted.

[F.No.S-35025/09/2011-SS-II]
RAVI MATHUR, Addl. Secy.

Foot Note: The Employees' Pension Scheme, 1995 was published in the Gazette of India, Part II, Section 3, Sub-section(i), vide number 748(E), dated the 16th November, 1995 and the Scheme was last amended vide number S.O.1809(E), dated 5-8-2011.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್.ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 14
SC - 20

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 5 ಕೇನಿಪ್ರ 2013, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 22ನೇ ಜನವರಿ, 2013.

2012ನೇ ಸಾಲಿನ 01–10–2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(i) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R. 735(E) ದಿನಾಂಕ: 01–10–2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 01st October, 2012

G.S.R. 735(E) :-In exercise of the powers conferred by clause (ii) of section 66 of the Prevention of Money- Laundering Act, 2002 (15 of 2003), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendent in the notification of the Government of India, in the Ministry of Finance, Department of Revenue, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R.381 (E), dated the 27th June, namely:-

In the said notification, after serial number (15) and the entry relating thereto, the following serial number and the entry shall be inserted, namely:-

"(16) Ministry of External Affairs"

[Notification No.1/2012/F.No.P.12011/2/2009-S.O.(E.S.Cell)]
BIPLAB KUMAR NASKAR, Under Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide No. G.S.R. 381(E), dated the 27th June, 2006 and subsequently amended vide number G.S.R.929(E), dated the 29th December 2009, G.S.R 763(E), dated the 15th September, 2010 and G.S.R. 957(E), dated the 7th December, 2010.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್.ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 15
SC - 20

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 13 ಕೇನಿಪ್ರ 2013, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 22ನೇ ಜನವರಿ, 2013.

2012ನೇ ಸಾಲಿನ 27-09-2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(i) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R. 730(E) ದಿನಾಂಕ: 27-09-2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 27TH September, 2012

G.S.R. 730(E) :-In pursuance of clause (ii) of sub-section (1) of Section 209A of the Companies Act, 1956 (1 of 1956), the Central Government hereby authorise the following officers in the Serious Fraud Investigation Office, Ministry of Corporate Affairs, for the purpose of conducting inspection, under Section 209A of the Companies Act, 1956:-

1. Sh. P.R. Lakra, Additional Director (C&CE)
2. Sh. Vinod Kumar Sharma, Additional Director
3. Sh. SanJay Rai, Additional Director
4. Smt. Richa Kukreja, joint Director (CL)
5. Sh. Dharamvir Singh, Dy.Director
6. Sh. S.K.Saxena, Dy.Director
7. Sh. K.S.Kaushik, Dy.Director
8. Sh. Anil Singhal, Sr.Asstt.Director
9. Sh. H.K.Pandey, Sr.Asstt. Director
10. Sh. Raj Kumar Sr. Asstt. Director
11. Sh. Sanjay Kumar Bhandari, Asstt. Director
12. Sh. N.K.Choudhary, Asstt. Director
13. Sh. A.S. Mishra, Asstt. Director
14. Sh. R.K.Mishra, Sr. Asstt. Director
15. Sh. D.K.Sharma, Asstt. Director
16. Sh. S.K.Nanda, Asstt. Director
17. Sh. S.S.Sahni, Asstt. Director
18. Sh. Om Prakash, Asstt. Director
19. Smt. Sumita Narula, Asstt. Director
20. Sh. D.K.Arora, Asstt. Director
21. Sh. C.S.Lakshminarayanan, Asstt. Director
22. Smt. Savitha Sharma, Asstt. Director
23. Sh. N.K.Chand, Additional Director (Inv.)
24. Sh. Aloke Kumar Bardhan, Asstt. Director (Banking)

[F.No.3/124/2012/CL.II)]
U.C.NAHTA, Director of Inspection & Investigation.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್.ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 16
SC - 20

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

NOTIFICATION

Dated : 5th November 2012

No. 56/2011 (vi)/PPS-II - In pursuance of sub-paragraph (2) of paragraph 17 of the Election Symbols (Reservation & Allotment) Order, 1968, the Election Commission of India hereby makes the following amendments to its Notification No. 56/2011/PPS-II, dated 28.12.2011, as amended from time to time, namely: -

1. In Table III (Registered un-recognised parties), appended to the said Notification -

(i) After the existing entries at Sl. No. 1366, the following entries shall be inserted under Column Nos. 1, 2 & 3, respectively: -
"

Sl. No.	Party's Name	Address
1367	Gujarat Parivartan Party	A-4, Abhinav Arcade, Pritamnagar, Ashram Road, Ahmedabad, Gujarat- 380006.
1368.	All India Pichhada Jan Samaj Party	475/15 Ka, Kadam Rasool, Daliganj, Lucknow, Uttar Pradesh.
1369.	Yuva Jankranti Party	Kasba - Kerakat, Mohalla – Shekhzada 2nd, Post - Kerakat, Janpad - Jaunpur, Uttar Pradesh.
1370.	Rashtriya Sarvjan Samaj Party .	Village & Post - Mandhata, Tehsil- Sadar, Distt. - Pratapgarh, Uttar Pradesh.
1371.	Navin Bharat Nirman Manch	Pipalawali Khadki, At. & Po. Kasor- 388205, Ta. & District Anand, Gujarat.
1372.	Bharatiya Navyuvak Chetna Party	429/263, Near Amber Marriage Hall, Mojjamnagar, Lucknow, Uttar Pradesh.
1373.	Bahujan Party	125/98, New L.I.G. Barraha -7, Kanpur-208027 Uttar Pradesh.
1374.	Taayi Nadu Party	Taayi Nadu Party 44/15, Kamraj Road, Shivaji Nagar, Bangalore-560001. Karnataka.
1375.	Telangana Loksatta Party	Plot No. 46, Flat No. 201, Gunrock Teachers Colony, Trimulgherry, Secundrabad- 500015 Andhra Pradesh

";

(ii) Against Sl. No. 620, relating to 'Kannada Naadu Party', for the existing entries in Column No.3, the following entry shall be substituted :-

"
54, Ground Floor, Parasana Colony,
Basaveshwar Nagar, Gokul Road,
Hubli - 580030, Kamataka."

By Order,
VARINDER KUMAR
SECRETARY
ELECTION COMMISSION OF INDIA

P.R. 104
SC – 100

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

NOTIFICATION

Dated : 3rd January, 2013

No. 82/KT-HP/(23/2009)/2012- In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the order dated 19th October, 2012 of the High Court of Karnataka in Election Petition No 23 of 2009 filed by Shri Devanna Naik challenging the election of S. Pakkirappa & Others, a member of the Lok Sabha from 6-Raichur (ST) Parliamentary Constituency & others.

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 19th DAY OF OCTOBER, 2012

BEFORE

THE HON'BLE MR. JUSTICE MOHAN SHANTANAGOUDAR

ELECTION PETITION No.23/2009

ALONG WITH

RECRIMINATION PETITION

IN

ELECTION PETITION No.23/2009

E.P. NO. 23 OF 2009 :

BETWEEN:

K. Devanna Naik
5/0 late Dullayya Naik
Aged about 55 years,
Advocate R/o No.6-2-125
Near B.R.B. College, Raichur
Raichur District-584101.

.... Petitioner

(By Sri Shivaraj N. Arali, Adv.,)

AND:

1. S. Pakkirappa
   5/0 S. Obalappa
   Aged about 51 years
   Now elected as Member of Parliament
   R/o No.171, Ordinance Road Fort,
   Bellary, Bellary District-583101.

2. Raja Venkatappa Naik
   S/o Rajkumar Nalk
   Aged about 52 years
   R/o Vasanth Mahal, Dharbar Road,
   Shorapur, Gulbarga District-585105.

3. Shivakumar
   S/o Basappa
   Age Major
   R/o Korvi Village,
   Manvi Taluk,
   Raichur-584123.

4. V.H. Master
S/o Huligeppa
Age Major
R/o No.8/1/61/B
Ambedkar nagar,
Harjan Wada
Raichur, Raichur Taluk, Raichur District.

5. Mudakappa
S/o Hanvayya
Vasey Age Major
R/o Near Manvi Camp
Manvi Taluka
Raichur District-584123.

6. Mudakappa Naik
S/o Hanumantappa Naik
Age Major
R/o Near Narayana Swamy
Ashram, Manvi Taluka
Raichur District-584123.

7. Somashekar
S/o Bhaganna
Age Major
R/o No 4/8/31/B
Yadgir Taluka
Gulbarga District-585201.

8. Raja Amareshwar Naik
S/o Raja Narasimha Naik
Age Major
R/o Gurugunta
Lingasur Taluka
Raichur District.

9. Adhoni Syed Salim
Election Officer
Loka Sabha Constituency
Raichur.

R8 & R9 deleted as per

Order in Misc. No.1359/2011

V.C.O. dated 12.07.2011. **.... Respondents**

(By Sri D.N.Nanjunda Reddy, Sr.Counsel for
Sri B.M.Arun & Sri D.P.Mahesh, Advocates
For R-l, Sri M.V.Hiremath, Advocate for R-2;
M/s.Mylaraiah Associates, Advocate for R-6)

Election petition is presented under Section 81 of the Representation of People Act, 1951 by the petitioner- Sri K.Devanna nalk, who is a candidate to No.6-Raichur (ST) Parliamentary Constituency, election held April/May, 2009 along with his advocate Sri Shivaraj N.Arali praying that the Hon'ble Court may be pleased to: declare the election of respondent No.1 of Raichur - Parliamentary Constituency is invalid and illegal as the respondent Nos.1 and 2 were not qualified to accept their nomination and same is void as committed corrupted and illegal, etc.

<u>RECRIMINATION PETITION</u>

<u>BETWEEN:</u>

Raja Venkatappa Naik
S/o Rajkumar Naik
Aged about 52 years
R/o Vasanth Mahal
Dharbar Road,
Shorapur,
Gulbarga District-585105.

……Petitioner

(By Sri M.V. Hiremath, Adv.,)

<u>AND:</u>

1. K. Devanna Naik
S/o late Dullayya
Aged about 55 years
Advocate
R/o No.6-2-125
Near B.R.B. College,
Raichur
Raichur District-584101.

2. S. Pakkirappa
S/o S. Obalappa
Aged about 51 years
Now elected as
Member of Parliament
R/o No.171
Ordinance Road Fort
Bellary
Bellary District-583101.

3. Shivakumar
S/o Basappa
Age Major
R/o Korvi Village
Manvi Taluk
Raichur-584123.

4. V.H. Master
S/o Huligeppa
Age Major
R/o No.8/1/61/B
Ambedkar Nagar
Harjan Wada,
Raichur
Raichur District.

5. Mudakappa
S/o Hanvayya Vasey
Age Major
R/o Near Manvi
Camp Manvi Taluka
Raichur District-584123.

6. Mudakappa Naik
S/o Hanumantappa Naik
Age Major
R/o Near Narayana Swamy
Ashram, Manvi Taluka
Raichur District-584123.

7. Somashekar
S/o Bhaganna
Age Major
R/o NoA/8/31/B
Yadgir -Taluka
Gulbarga District-585201.

8. Raja Amareshwar Naik
S/o Raja Narasimha Naik
Age Major
RIo Gurugunta
Lingasur Taluka
Raichur District.

9. Adhoni Syed Salim
Election Officer
Loka Sabba Constituency
Raichur District.

….. Respondents

(By Sri Shivaraj N. Arali, Adv., for R1;
Sri D.N.Nanjunda Reddy, Sr. Counsel for
Sri B.M.Arun & Sri D.P.Mahesh, Advocates for R-2)

This recrimination petition is filed under Section 97 of the Representation of People Act, 1951, praying to procure the records and allow the claim of respondent No.2/recrimination petitioner as successful candidate in the event of allowing EP.No.23/2009 of the election of respondent No.1 from 'No.6- Raichur (ST) Parliamentary Constituency' as void, in the interest of justice and equity.

These election petition and recrimination petition having been heard and reserved for orders, coming on for pronouncement of order this day, the Court made the following:-

ORDER

This election petition is filed under Section 81 of Representation of People Act (for short hereinafter referred to as the 'Act') by the one of the contestants, who has lost in the election from '# 6-Raichur (ST) Parliamentary Constituency' conducted in April/May 2009. The petitioner has sought for declaration that the election of the first respondent in '#6-Raichur(ST) Parliamentary Constituency is invalid and illegal; that he be declared as an elected candidate in the said election. Petitioner has also sought for setting aside the order passed by the Election Officer (earlier, the Election Officer was arrayed as respondent No.9. However, he is permitted to be deleted from the /causetitle by the order dated 12.7.2011) under Section 100(1)(i) of the Act, relating to acceptance of nomination of respondent No.1.

2. Case of the petitioner is that he belongs to 'Naik' Caste, which is declared as Schedule Tribe under Article 342 of Constitution of India. Respondent No.1 claims that he belongs to 'Hindu Valmiki' Caste as evident from Form D submitted by respondent No.1 prior to contesting the election. Respondent No.2 and Sri Raja Amareshwar Naik (earlier, Sri Raja Amareshwar Naik was arrayed as respondent No.8. However, he is permitted to be deleted from the causetitle by the order dated 12.7.2011) though claim that they also belong to 'Nayaka' Caste, they do not actually belong to 'Nayaka' Caste; so also respondents 3 to 7 are not belonging to Schedule Tribe; the election was held during the month April/May 2009 and in the said election, '#6-Raichur (ST) Parliamentary Constituency was reserved for Scheduled Tribe candidate and consequently the candidates belonging to Scheduled Tribe only could contest such election. Respondents 1, 2 and Sri Raja Amareshwar Naik gave false declaration before the Election Officer and consequently their nominations were not in accordance with law; the petitioner has filed his objections before the Chief Election Officer not to accept the nomination papers of respondents 1, 2 and Sri Raja Amareshwar Naik; however, the Election Officer passed the order

dated 4.4.2009 erroneously holding that the nomination papers of respondents 1, 2 and Sri Raja Amareshwar Naik are valid; the Election Officer has illegally permitted Sri Raja Amareshwar Naik to withdraw his nomination on a day which was not specified for withdrawal of nomination.

It is the further case of petitioner that he contested the election on the basis of Form B issued by Janata Dal (5) Party. Respondent No.1 at the time of submitting Form-2A (nomination paper), claimed as a dummy candidate of Bharatiya Janata Party (for short hereinafter 'BJP'); respondent No.2 submitted his nomination along with Form B issued by National Congress Party; Sri Raja Amareshwar Naik submitted his Form-2A claiming that he has obtained Form B from BJP; respondents 3 to 7 contested the election as independent candidates. The Election Officer wrongly permitted respondent No.1, who claimed to be dummy candidate of BJP, to contest in the election from '#6- Raichur(ST) Parliamentary Constituency' after dismissal of the nomination paper of Sri Raja Amareshwar Naik as withdrawn; respondent No.1 was declared elected in respect of '#6-Raichur (ST) /Parliamentary Constituency' on 16.5.2009 and he had secured 3,16,460 votes; respondent No.2 had secured 2,65,814 votes and whereas petitioner had secured 29,317 votes; respondents 3 to 7 had secured less votes than the petitioner.

3. The sum and substance of the petitioner's case is that respondents 1 and 2 do not belong to Scheduled Tribe and consequently they were not qualified to contest the election from '#6-Raichur (ST) Parliamentary Constituency' held in the month of April/May, 2009. It is further case of the petitioner that the first respondent was not issued with Form B by BJP and consequently, respondent No.1 should not have been allotted BJP symbol at the time of contesting the election; Respondent No.1 could not have been allowed to contest the said election even as an independent candidate as his nomination was not proposed by the 10 voters of the Constituency. On these, among other grounds, he prays for setting aside the election of first respondent to '#6-Raichur (ST) Parliamentary Constituency' held during the month April/May, 2009 and he has also sought for declaration that he is an elected candidate from '#6- Raichur (ST) Parliamentary Constituency.

4. Respondent No.1 has contested the election petition by filing the written statement. He has denied the allegation of the petitioner that the flrst respondent does not belong to Scheduled Tribe; that the certificate in Form D issued in favour of respondent No.1 as '(Hindu) Valmiki' is not a false caste certificate and the same is not obtained illegally for contesting elections from '#6-Raichur (ST) Constituency'; he does not belong to 'boya' community and that he is not born in Andhra Pradesh State. The word 'Hindu' referred to in caste certificate of first respondent (Form D) referred to his religion and word 'valmiki' is his caste; only the caste of the person is referred to in the Constitution (Scheduled Tribes) Order, 1950, issued under Article 342 of Constitution of India; that the first respondent is born and brought up in Meenahalli Village, Bellary Taluk and District, Karnataka State, which is evident from the Transfer Certificate, dated 16.5.2009 issued by the Government Higher Primary School, Meenahalli Village and the extract of property tax dated 4.3.2003, as also the Ration Card.

It is further case of the first respondent that the erstwhile candidate of BJP viz., Sri Raja Amareshwar Naik withdrew his nomination in favour of the first respondent and therefore there is no illegality or irregularity or infraction of any Act, Rule or Orders in respect of acceptance of nomination of first respondent as a candidate of BJP and therefore action of the Returning Officer in this regard is valid and correct; even assuming, but not conceding, the petitioner has not pleaded material facts to demonstrate that the same has materially affected the result of the election, without which no relief can be granted to the petitioner.

Respondent No.1 denies the averments of the petitioner that the first respondent has not produced the voters' list at the time of submitting nomination paper in Form-2A and infact had subsequently produced the same in collusion with the Returning Officer; he has further denied the allegation that at the instigation and instance of BJP, which is the ruling party in Karnataka State, has materially affected the result of the election. The order of the Election Officer/ is legal and valid and there is no infirmity in the entire process; /the petitioner's contention that he has secured third highest number of valid votes when compared to respondents 4 to 7 and Sri Raja Amareshwar Naik and therefore he is to be declared as elected candidate from '#6-Raichur(ST) Parliamentary Constituency is untenable; the petitioner is not entitled for any declaration having regard to the huge margin of votes between the 1st respondent and the petitioner. On these among other grounds, respondent No.1 prayed for dismissal of the election petition.

5. The written statement is also filed by the second respondent to the election petition and the summary of the same is as under:-

The averment made in the election petition that the second respondent does not belong to Scheduled Tribe and that he gave false declaration and consequently his nomination is not in accordance with law, is improper and incorrect; that the Returning Officer has judiciously conducted the enquiry at the time of acceptance of nomination and sought the report of the Tahsildar and thereafter he has come to the definite conclusion that the certificate obtained by the second respondent that he belongs to Nayaka (valmiki) caste which is categorized as Scheduled Tribe is valid. Therefore, the petitioner cannot contend that the Returning Officer has passed an order without considering his grievance; the second respondent has studied up to SSLC in Daffodeal High School, situated at No.763, Himyat Nagar Street, Hyderabad. Nayaka caste is categorized as Scheduled Tribe in terms of the notification issued by the President of

India under Article 342 of Constitution of India. The State of Karnataka in its order dated 1.4.1982 has included Nayaka, Naik, Palegar, Valmiki as backward Tribes taking into consideration of the social status of Nayaka (Valmiki). Subsequently, after noticing the synonyms of the other sub-sects of Kshatriya which is a parent caste identified from time immemorial, vlz., beda, boya, naika, talwar, valmiki as Scheduled Tribe on the basis of the report of the Backward Class Commissioner and thereafter the State obtained the assent of the President of India as contemplated under Article 342 of the Constitution of India for incorporating Nayaka (valmiki) Caste as Scheduled Tribe which is a sub-sect of Kshatriya as indicated in the Transfer Certificate produced by the petitioner.

The second respondent has contested the election for Surpur Assembly segment in the General Election during 1994 producing the certificate that he belongs to Scheduled Tribe; the second respondent contested from Assembly Constituency of Surpur by producing the certificate that he belongs to Scheduled Tribe subsequently also. In the same way he contested the General Election held in the month May 2008 from Surpur Assembly Constituency by producing such certificate that he belongs to Nayaka community which is a Scheduled Tribe. Thereafter during 2009, the second respondent has contested for the post of MLA of Surpur Constituency which is reserved for Schedule Tribe based on such certificate of Schedule Tribe. The Returning Officer of Raichur Parliamentary Constituency after having received the objection statement filed by the petitioner during the course of scrutiny got the matter verified. The Assistant Returning Officer has conducted a local enquiry and reported to the Deputy Commissioner stating that the second respondent and his ancestors are Kshyatriyas and accordingly the certificate produced by the competent authority is valid. The nomination of the second respondent was accepted by the Returning Officer after considering the grievances pointed out by the petitioner on the basis of the reports and local enquiry. He further submits that the petitioner's request that he be declared as elected candidate as he has secured highest votes, ignoring the votes secured by respondents 1 and 2 is untenable. The second respondent is a candidate who has secured highest number of votes than that of the petitioner and therefore he is eligible and entitled to get declared elected in the place of first respondent in case if the first respondent's election is set aside. On these among other grounds, he prayed for dismissal of the election petition.

6. Sri Raja Amareshwar Nalk has also filed written statement and its sum and substance is as under:-

The election petition is misconceived and the petitioner is not entitled to any relief, inasmuch as he has secured meager 29,317 votes as against 3,16,450 secured by the winning candidate and the petitioner has lost deposit in the election. The Sri Raja Amareshwar Naik belongs to Nayaka caste which is declared as Scheduled Tribe under Article 342 of the Constitution of India. The nomination paper filed by the petitioner reveals that he is member of Nayaka Caste/Tribe and whereas in the election petition he has narrated his Caste as Naik. There are variations in the status of caste of the petitioner and papers produced by him. This renders his claim to be belonging to Scheduled Tribe highly doubtful.

Raja Amareshwar Naik has filed his nomination on 3.4.2009 as candidate sponsored by BJP along with the nomination. Sri Raja Amareshwar Naik filed caste certificate dated 28.3.2009 issued by the Tahsildar, Lingasugur; the local enquiry was conducted by the jurisdictional officers and the material was gathered from them during the course of local enquiry including genealogy of Sri Raja Amareshwar Naik. After verifying every material and based on the material on record, including the authoritative text and detailed examination of anthropological and ethnological traits, deity, rituals, customs, mode of marriage, etc., the Assistant Commissioner came to the conclusion that Sri Raja Amareshwar Naik is not a Kshatriya as alleged and he belongs to Nayaka community. Accordingly, he submitted his report on 4.4.2009 to the Deputy Commissioner observing that Sri Raja Amareshwar Naik belongs to Nayaka caste. That apart, as long as the caste certificate issued by the Tahsildar is not cancelled, its validity cannot be questioned except before authorities concerned, who alone are empowered to enquire into the validity of the caste certificate and decide.

As aforementioned, Sri Raja Amareshwar Naik filed his nomination on 3.4.2009 along with caste certificate dated 28.3.2009. The scrutiny of nominations was taken up on 6.4.2009; the petitioner through his advocate raised objections that the Scheduled Tribe Certificate is wrong and contended that he belongs to Kshatriya Community and not to Scheduled Tribe; the Returning Officer overruled his objections by endorsing on the nomination paper; even prior to acceptance of nomination papers submitted by Sri Raja Amareshwar Naik by the Returning Officer, Sri Raja Amareshwar Naik withdrew his nomination and thereupon the Returning Officer rejected the nomination of Sri Raja Amareshwar Naik as withdrawn; the act of the Returning Officer in rejecting the nomination of Sri Raja Amareshwar Naik as withdrawn is strictly in accordance with law. Hence, there is no ground warranting interference with the order of the Returning Officer. The Returning Officer has passed the order holding that the nomination papers of the respondent No.1 and Sri Raja Amareshwar Naik are valid, etc. by the order dated 4.4.2009 at 3.00 p.m. The nomination paper of Sri Raja Amareshwar Naik was filed as a BJP candidate as he was set up by BJP initially. However, the Returning Officer has rightly rejected the said nomination paper as the nomination was withdrawn by Sri Raja Amareshwar Naik. On these among other grounds, Sri Raja Amareshwar Nalk has "prayed for. dismissal of the election petition.

7. The second respondent filed recrimination petition under Section 97 of the Act. The second respondent herein who is a recrimination petitioner has stated that the averments made in the statement of objections filed by the second respondent to the main election petition may be treated as the averments made in the recrimination petition and as part and parcel of his recrimination petition.

In the recrimination petition, he reiterated all the contentions as stated by him in the statement of objections filed to the election petition. He has stated that he belongs to Scheduled Tribe Category. In four General Elections he contested for Assembly Constituency as Scheduled Tribe candidate by producing Scheduled Tribe certificate though the constituency was not reserved for Scheduled Tribe candidate; he further submitted that nomination was rightly accepted by the Returning Officer in the election in question, i.e., election of 2009 for '#6- Raichur (ST) Parliamentary Constituency'; in the event if the first respondent's election is declared as null and void, the claim of the petitioner for his declaration as elected candidate should not be allowed; the recrimination petitioner (second respondent) who has secured highest votes than other candidates, is entitled to be declared as elected candidate in place of the first respondent. Thus, he has prayed that in event of allowing election petition, he be declared as elected candidate from '#6-Raichur (ST) Parliamentary Constituency'.

8. Based on the pleadings, the following issues were raised:-

"Issues in Election Petition:

1. Whether the petitioner proves that respondents 1 and 2 do not belong to Scheduled Tribe Category and consequently were not qualified to contest in the election from '#6-Raichur (ST) Parliamentary Constituency held during April/May, 2009 ?
2. Whether the petitioner proves that the first respondent was not issued with B-Form by BIP and consequently, respondent No.1 should not have been allotted with BJP Symbol ?
3. Whether the petitioner proves that the nomination filed by respondent No.1 is not proposed by 10 voters of the constituency ?
4. Whether the petitioner proves that he has to be declared elected from '#6- Raichur (ST) Parliamentary Constituency ?

Issue in Recrimination Petition:

5. Whether respondent No.2 (the recrimination petitioner) proves that he has to be declared duly elected from '#6- Raichur (ST) Parliamentary Constituency ?

9. In support of his case, the election petitioner, examined himself as PW1 and has examined the Returning Officer of the election relating to '#6- Raichur (ST) Parliamentary Constituency' during the year 2009, namely, Sri Adoni Syed Salim as PW2. Sri R.Venkatesh who was working as Tahsildar from 4.2.2009 to 16.2.2010, i.e., during relevant period of election, is examined as PW3. He Is the person who issued the caste certificates in favour of the petitioner and in favour of the first respondent. On behalf of the petitioner, 54 documents were got marked.

On behalf of respondent No.1, he himself was examined as RW1.

No one was examined as witness on behalf of other respondents, including respondents 2 and Sri Raja Amareshwar Naik.

10. Sri Shivaraj Arali, learned counsel appearing for the petitioner submits that respondents 1 and 2 do not belong to Scheduled Tribe and consequently, the improper acceptance of nomination papers of respondents 1 and 2 to contest the election as if they belong to Scheduled Tribe, has resulted in illegality; in a constituency where any seat is reserved, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particular caste or tribe to which he is a member; respondent No.1 did not produce the authenticated Form B issued by BJP as pen under Section 33(1) of the Act r/w. paragraphs-8, 13 and 13A of the Election Symbols (Reservation and Allotment) Order, 1968 (for short hereinafter referred to '1968 Order'); the allotment of BJP symbol in favour of the first respondent is illegal and improper; Form B is issued in favour of Sri Raja Amareshwar Naik by BJP and not in favour of the first respondent; Form B cannot be transferred in favour of the first respondent during the interregnum; in the absence of authenticated Form B issued by the authorised authority of BJP in favour of the first respondent, the Returning Officer is not justified in permitting the first respondent to contest the election as a BJP candidate by allotting BJP symbol in his favour; since the nomination paper of the first respondent was supported by only one proposer, his nomination ought to have been rejected by the Returning Officer, inasmuch as the first respondent is deemed to be an independent candidate in the absence of any valid symbol issued by BJP; The Election Officer-has ignored the fact that 10 proposers have not supported the nomination of the first respondent.

Elaborating the aforementioned submission, Sri Shivaraj Arali submits that the caste certificate of respondent No.1 produced by him at the time of filing the nomination paper is false; the caste certificate of the first respondent reveals that he belongs to '(Hindu) valmiki' caste which does not find place in the Constitution (Scheduled Tribes) Order, 1950; respondent No.2 belongs to Kshatriya caste; the word 'Hindu' found in the caste .. certificate of respondent No.1 cannot be treated as the one representing religion of respondent No.1; the evidence of Returning Officer-PW2 clearly reveals that the caste of respondent No.1 is '(Hindu) valmiki';

the evidence of PW3- Tahsildar who issued the caste certificate as per EX.P10 reveals that the first respondent himself has filed the application before PW.3 for issuing the caste certificate mentioning therein that his caste is '(Hindu) valmiki'; the report of the Revenue Inspector at EX.P46 also reveals that the first respondent belongs to '(Hindu) velmiki' caste whereas in the Constitution (Scheduled Tribes) Order, 1950 nowhere it reveals the name of the caste as '(Hindu) valmiki', but merely mentions the name of the caste as 'valmiki'.

Regarding Issue Nos.2 and 3, learned counsel for the petitioner submitted that the last date for withdrawal of nomination was on 8.4.2009 and therefore the Returning Officer could not have permitted the nomination to be withdrawn on the date of scrutiny itself i.e., prior to the last date fixed for withdrawal of nomination; withdrawal of nomination shall be permitted only on the date fixed for withdrawal of nomlnationand not prior thereto. Since respondent No.1 was not the candidate set up by BJP, the recognized political party, his nomination ought to have been supported by 10 valid proposers; Form B ought to have been submitted by the first respondent before the Returning. Officer of the Constituency before 3.00 p.rn. on the last date for making the nominations; but the nomination of the first respondent was not accompanied with Form B of BJP at the time of making the nomination; only one Form B was issued by BJP in favour of Sri Raja Amareshwar Naik as per Ex.P14; since the last date for submission of nomination was fixed on 4.4.2009, the first respondent ought to have submitted his Form B before 3.00 p.m. on 4.4.2009; the nomination papers of Sri Raja Amareshwar Naik were submitted by him on 3.4.2009 and 4.4.2009 as per EX.P24 and P22 respectively and the same were in order; Sri Raja Amareshwar Naik withdrew his nomination on 6.4.2009; since no Form B was issued in favour of respondent No.1, prior to 3.00 p.m. on 4.4.2009, he should not have been recognized as a candidate of BJP by the Returning Officer; the Form B issued by BJP is contrary to the paragraphs-13 and 13A of '1968 Order'; wrong acceptance of the nomination paper of the first respondent itself has materially affected the election of the petitioner. On these among other grounds, he prayed for setting aside the election of respondent No.1 and for declaration in favour of petitioner that he is an elected candidate in the election in question.

11. Sri Nanjunda Reddy, learned senior counsel appearing on behalf of the respondent No.1 submits that the petitioner has pleaded in his election petition that the first respondent belongs to 'boya' community; however he has given up fhe- said plea during the course of arguments; even otherwise there is no evidence produced by the petitioner to show that the first respondent belongs to 'boya' community; in his nomination paper, the first respondent has declared that he belongs to 'valmiki' caste which comes under Scheduled Tribe in Karnataka; the only requirement under Section 33(2) of the Act is to declare that a particular candidate is belonging to a particular community and the same is complied with by the first respondent, inasmuch as he has declared that he belongs to 'valmiki' caste which comes under Scheduled Tribe in Karnataka and thus nomination paper filed by respondent No.1 is valid; endorsement is made by the Returning Officer as per Ex.P9 (a) that the nomination of the first respondent is valid nomination, since Sri Raja Amareshwar Naik, the candidate of BJP has withdrawn his /candidature after scrutiny, the substituted candidate's Forms-A and B are considered and he is declared to have been set up by BJP. By observing so, the Returning Officer has accepted the nomination paper of the first respondent; no exception is taken by anybody, including the petitioner before the Returning Officer at the time of scrutiny of the nomination papers of respondent No.1 by raising objection to the caste of the first respondent; the petitioner has not objected before the Returning Officer for acceptance of the caste certificate submitted by the first respondent at the time of scrutiny of the nomination paper; though the petitioner has raised objection in respect of respondent No.2 in respect of the caste certificate, he has not raised such objection relating to Form B in respect of respondent No.1; Rule 3-A of the Karnataka Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation of Appointments, etc.) Rules, 1992 is a self-contained Rule relating to procedure for issuance of caste certificate, inasmuch as it prescribes procedure for enquiry, investigation of the caste of a particular person, etc; the caste certificate is issued in favour of the first respondent after making due enquiry by the Village Accountant as well as the Revenue Inspector; local enquiries were also made prior to issuance of caste certificate; panchanama was drawn in the presence of Revenue Inspector with the help of local villagers and thereafter the caste certificate is issued as per Ex.P10; evidence of the Tahsildar-PW.3, who issued the caste certificate clearly reveals that only after verifying the records, caste certificate is issued by him; the Constitution (Scheduled Tribes) Order, 1950 (Item No.38 in respect of Karnataka) clearly reveals that 'valmiki' is one of the castes which is included in the said Order; the nomination paper of the first respondent specifies that his caste is 'valmiki'; the word 'Hindu' denotes the religion and not the caste; the word 'Hindu' is put in bracket i.e., separated by a bracket and therefore it will not go along with the word 'valmiki'; the Tahsildar himself is definite about the caste of the first respondent that he belongs to 'valmiki' caste which comes under Constitution (Scheduled Tribes) Order, 1950; the school records as far back as in the year 1971 reveal that the first respondent's caste is 'valmiki' (nayaka) - ST and religion is 'Hindu'; the caste certificate of son of respondent No.1 also discloses that he belongs to 'valmiki' caste which comes under Scheduled Tribe. The first respondent was not cross-examined by the petitioner on that aspect of the matter; certain irrelevant questions are asked relating to caste of respondent No.1 during his cross-examination. The caste certificate is produced before this Court through the Tahsildar-PW3 and he has withstood in his crossexamination. Since the caste certificate is produced before this Court, this Court as an original Court may enter into that question to decide the issue; he relies upon the observations made by this Court in EP.Nos4/2009 and 11/2009 to contend that '(Hindu) valmiki'to which the petitioner belongs comes under Scheduled Tribe.

On issue Nos.2 and 3, learned counsel for respondent No.1 submits that the nomination can be withdrawn by the contestant at any time prior to the date fixed for withdrawal of the nomination; paragraph-13A of '1968 Order' deals with the substitution of a candidate by a political party; Form B is part of paragraph-13A and the same cannot be bifurcated from paragraphs-13 and 13A of the said Order. In Form B itself, the name of the first respondent is shown in Column No.5 as substitute candidate. The notice is given by Sri Raja Amareshwar Naik for withdrawal of his candidature as per EX.P26 on 6.4.2009 and thereafter he withdrew his candidature. After withdrawal of candidature of Sri Raja Amareshwar Naik, the nomination paper of the petitioner was accepted as a valid nomination on 6.4.2009, inasmuch as his name was shown as substitute candidate in column No.5 of Form B. There is no pleading or proof to show that the improper acceptance of nomination of elected candidate has materially affected the election and therefore no relief can be granted in favour of the petitioner; the petitioner has got 29,317 votes only, the first respondent has secured 3,16,450 votes and whereas respondent No.2 another defeated has secured 2,85,814 votes. This itself goes to show that there is a difference of about 3 lakhs between the votes polled in favour of the petitioner and the first respondent.

12. Sri M.V.Hiremath, learned counsel appearing on behalf of respondent No.2 made a futile attempt to support the recrimination petition filed by the second respondent. It is relevant to note that the second respondent has not entered witness box and he has not produced any document in support of his case. The second respondent has failed to substantiate the recrimination petition filed by him.

13. **Re. Issue No.1:** As aforesaid, case of the petitioner is that respondent No.1 does not belong to Schedule Tribe and that the declaration given in favour of the first respondent in Form D declaring him as '(Hindu) valmiki' is false certificate and the same is obtained for the purpose of contesting the election from '#6-Raichur(ST) Parliamentary Constituency'.

EX.P10 is the caste certificate of. respondent No.1 and the same is dated 2.4.2009. The said certificate is issued by the Tahsildar, Bellary (PW.3). The caste certificate issued in Form D reveals that the caste of respondent No.1 is '(Hindu) valmiki' and he belongs to Scheduled Tribe as per Constitution (Scheduled Tribes) Order, 1950. The signature of the Tahsildar - issuing authority is marked at Ex.P44. Copy of the nomination paper of respondent No.1 is marked at Ex.P9. In the nomination paper, he has declared his caste as 'valmiki' which is a Scheduled Tribe. The declaration of the petitioner' in the nomination paper in respect of caste as aforementioned is marked at Ex.P42. Based on the said material, the petitioner contends that the first respondent does not belong to Scheduled Tribe, inasmuch as he does not belong to 'valmiki' caste, but he belongs to '(Hindu) valmiki' caste.

Item No.38 of the Constitution (Scheduled Tribes) Order, 1950 reads thus:-

> "38. Naikda, Nayaka, Chollivala Nayaka, Kapadia Nayaka,
> Mota Nayaka, Nana Nayaka, Naik, Nayak, Beda, Bedar
> and Valmiki"

It is no doubt true that the caste "valmiki" is found in Item No.38 and the words '(Hindu) Valmiki' are not found therein. PW3 - Tahsildar has issued the caste certificate at EX.P1G, which was produced along with the nomination paper during election. The first respondent submitted an application before PW3 as per EX.P45 on 31.3.2009 in Form A to get the caste certificate. In the said application also he has mentioned his caste as '(Hindu) valmiki', EX.P46 is the report of the Revenue Inspector submitted before PW3 after making enquiries. The said report at Ex.P46, dated 1.4.2009 also reveals that the first respondent belongs to '(Hindu) valmiki' caste. Even the statement of the first respondent as per EX.P47 given before the Revenue Inspector also reveals that he belongs to '(Hindu) va/miki' caste. So also, his parents belong to '(Hindu) va/miki' caste. Ex.P48- panchanama drawn in presence of the Revenue Inspector also discloses that the first respondent and his parents belong to '(Hindu) valmiki' caste. EX.P51 is the Transfer Certificate issued in favour of the first respondent by the school authorities wherein the first respondent has studied as a primary school student. The said Transfer Certificate discloses that the religion of the first respondent is 'Hindu' and his caste is Scheduled Tribe and sub-caste is 'Nayakaru (valmiki)'. Based on these documents, petitioner's advocate contends that respondent No.1 does not belong to 'valmiki' caste, but he belongs either to '(Hindu) valmiki' or "nayakaru (valmiki)' caste, which does not come within Scheduled Tribe Category. It is further contention of the petitioner's counsel that the Transfer Certificate at EX.P51 is issued on 16.5.2009, i.e., after election and therefore the same could not have been the basis for issuing the caste certificate at EX.P10 dated 2.4.2009.

It is further case of the petitioner that the first respondent belongs to 'boya' community and born in Andhra Pradesh State, which is not Scheduled Tribe. However, during the course of trial, the petitioner has given up his case that the first respondent belongs to 'boya' community and born in Andhra Pradesh State. Thus, the only question which is to be determined is as to whether the first respondent belongs to Scheduled Tribe or not.

14. Section 33 of the Act deals with the presentation of nomination paper and requirements for a valid nomination. Section 33(2) of the Act reads thus:-

> "In a constituency where any seat is reserved, a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him

specifying the particular caste or tribe of which he is a member and the area in relation to which that caste or tribe is a Scheduled Caste or, as the case may be, a Scheduled Tribe of the State. "

From the aforementioned provision, it is clear that the person claiming to be under Scheduled Caste or Scheduled Tribe of the State, should specify the particular caste or tribe to which he is a member in his nomination paper if he is contesting for any reserved seat. Unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member, such candidate shall not be deemed to be qualified to be chosen to fill that seat. In the matter on hand, the nomination paper at EX.P9 contains the declaration of the first respondent stating that he belongs to 'valmiki' caste which comes under Scheduled Tribe in Karnataka State. Thus, the requirement as contained in Section 33(2) of the Act is fulfilled. Number of instructions are issued by the Election Commission from time to time, for the purpose of superintendence, direction and control of the elections, under Articles 323 and 324 of the Constitution of India. Relevant portion of Instruction NO.17 dated 2.7.2009 relating to scrutiny of the nomination paper (copy of which is marked at Ex.P40), states thus:-

> "In order to prevent cases of non-SC/ST persons contesting election from reserved constituencies, the Returning Officers at the time of scrutiny of nominations should satisfy themselves that the candidates contesting from reserved constituencies belong to SC or ST, as the case may be. Wherever in doubt, the Returning Officer must insist on production of SC/ST certificate issued by competent authorities. Where, however, the certificate produced by the candidate is also challenged, the Returning Officer need not go into that question, except where it is alleged that the certificate produced is forged or is not issued by competent authority. In the case of any allegation/suspicion about the genuineness of the certificate, the Returning Officer should get the position cross-checked with the authority which purportedly Issued the SC/ST certificate in· question, before deciding the validity of the nomination paper of the candidate concerned. If on such crosschecking/verification, the Returning Officer is satisfied that the certificate in question is not genuine, he should not only reject the nomination of the candidate concerned but should also initiate criminal proceeding against the candidate for adducing forged documentary evidence before him.
>
> The above instructions may be brought to the notice of all the Returning Officers, District Election Officers and also all political parties in your State, both recognized and un-recognized. "

15. It is needless to observe that such instructions have got statutory force. Aforementioned instruction mandates the Returning Officers to satisfy themselves at the time of scrutiny of nominations that the candidate contesting from reserved constituencies belong to SC or ST as the case may be. Wherever there is any doubt, the Returning Officer must insist for production of SC/ST certificate issued by the competent authorities. Wherever the certificate produced by the applicant is also challenged, the Returning Officer need not go into that question except where it is alleged that the certificate produced is forged, or is not issued by the competent authority. In case of any allegation or suspicion about genuiness of the certificate, the Returning Officer should get the position cross-checked with the authority which purportedly issued the certificate in question, before deciding the validity of nomination of the candidate concerned. After such cross-checking or verification, the Returning Officer has to specify that the certificate in question is not genuine and he shall reject the nomination of the candidate concerned apart from initiating criminal proceedings against the said candidate. In the matter on hand, as is clear from the endorsement made by the Returning Officer at Ex.P9(a), that the Returning Officer has satisfied himself about the genuiness of the caste certificate of the first respondent. The endorsement of the Returning Officer vide Ex.P9(a), reads thus:-

> "It is a valid nomination. Since the main candidate of BJP Raja Amreshwara Naik has withdrawn his candidature after scrutiny, this substituted candidate's Form 'A' and Form 'B' are considered. He is declared to have been set up BJP.
>
> Hence accepted. "

From the said endorsement, it is clear that the petitioner has neither made any allegation nor raised any suspicion about the genuineness of the caste certificate produced by the first respondent. He has not even raised any relating to caste certificate. In the absence of any objection from anybody and as the Returning Officer was satisfied about the genuineness of the caste certificate, the nomination paper of the first respondent is accepted. If really the petitioner was serious in questioning the validity of the caste certificate at the very inception, he should have done so before the Returning Officer. On the other hand, respondent No.1 raised objection in respect of caste certificate of petitioner as is clear from Ex.P5(a). The Returning Officer has over ruled said objection raised on

behalf of respondent No.1 and accepted the nomination paper of petitioner by accepting the caste certificate. The endorsement made by the Returning Officer vide Ex.P5a in respect of the nomination paper of petitioner reads thus:-

> "Shri V.H.Master objects orally stating that Nayaka does not come under ST Category.
>
> Tahsildar, the competent authority has issued the certificate which is not withdrawn. Otherwise also the nomination paper is valid.
>
> Hence, accepted."

It is also relevant to note that petitioner had written a letter to the Returning Officer on 1.4.2009 as per EX.P8 taking exception/raising objection. in respect of the caste certificate issued in favour of respondent No.2 and Sri Raja Amareshwar Naik. However/ he has not raised his little finger in respect of the caste certificate of the first respondent. Thus/ it is clear that wherever the petitioner had raised objections in respect of acceptance of nomination paper/ the same are duly considered by the Returning Officer. However, in the case of the first respondent, the petitioner has not raised any objection with regard to acceptance of the nomination paper by questioning the validity of the caste certificate.

16. The procedure for issuance of caste certificate or income and caste certificate is prescribed under Rule 3-A of the Karnataka Scheduled Castes and Scheduled Tribes and other Backward Classes (Reservation, Etc.) Rules, 1992. The aforementioned Rule contains the self-contained/exhaustive procedure to be followed at the time of issuance of the caste certificate/income certificate. Rule 3-A of the said Rules reads thus:-

> "3-A-Issue of Caste Certificate and Income and Caste Certificate- (1) Every application for Caste Certificate or Income and Caste Certificate under Section 4-A shall be in Forms A, B or C as may be appropriate accompanies by such document and other materials in support of the claim. (2)On receipt of the application the tahsildar shall verify the information, documents and such other materials furnished by the applicant and on such verification if he is satisfied with the correctness of the information, documents and evidence furnished by the applicant, he shall issue Caste Certificate or Income and Caste Certificate in Forms D, E or F as may be appropriate within two months from the date of receipt of the application. (3) Where the Tahsildar is not satisfied with the correctness of the information, documents or other materials furnished by the applicant he shall then proceed to hold enquiry as follows-

a) The Tahsildar shall fix the date of enquiry and issue notice to the applicant to appear on the date so fixed along with all documents and other materials which he desires to produce.

b) During the course of enquiry he shall examine the school records, birth registration certificate if any, and such other relevant records. He shall examine the applicant if he is present and may also examine the parent/guardian of the applicant and any other person who has the knowledge of the social status of the applicant and parent/guardian.

Provided that in the case of an applicant who belongs to the Scheduled Tribes, the Tahsildar shall also take into account the anthropoligical and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies and such other matters.

From the aforementioned Rule, it is clear that on receipt of the application, the Tahsildar shall verify the information, documents and such other materials furnished by the applicant. If the Tahsildar is satisfied with the correctness of the information, he shall issue caste certificate or income and caste certificate in an appropriate forms. However, if the Tahsildar is not satisfied with the correctness of the information, documents or other materials furnished by the applicant, then he shall hold enquiry as stated in Rule 3-A of the Rules, mentioned supra.

17. In the matter on hand, the first respondent made an application praying for furnishing caste certificate as per Ex.P45. Tahsildar got the enquiry done by the jurisdictional Village Accountant and the Revenue Inspector. The Village Accountant as well as the Revenue Inspector have submitted their reports to the effect that the first respondent belongs to '(Hindu) valmiki' caste. Ex.P46 is the report of the Revenue Inspector and Ex.P48 is the panchanama drawn in the presence of the Revenue Inspector, to which the villagers are signatories. The statement of the first respondent is recorded as per Ex.P47. During the course of enquiry by the Revenue Inspector, the first respondent has stated that he and his parents belong to '(Hindu) velmiki' caste. After following the procedure, the caste certificate is issued in favour of the first respondent as per EX.P10 mentioning therein that the first respondent belongs to '(Hindu)

valmiki' caste which comes under Scheduled Tribe as per Constitution (Scheduled Tribes) Order, 1950. Thus, it is clear that EX.P10 is issued after a detailed enquiry and such caste certificate is produced by the first respondent along with the nomination paper which has been accepted by the Returning Officer. As aforementioned, neither the petitioner nor his election agent did take exception or objection for accepting such nomination paper disputing the validity of such caste certificate.

18. The Tahsildar (PW3) is the person who issued caste certificate at Ex.P10. He has deposed specifically that after verifying the records, including the report of the Revenue Inspector, Panchanama, Identity Card issued by the Election Commissioner of India, Ration Card, Transfer Certificate vide Ex.P46, P48, P49, P50 and P51 respectively, has issued caste certificate in favour of the first respondent as per Ex.P10 on 2.4.2009. He has produced the Registrar maintained by the Office of the Tahsildar in respect of the issuance of the caste certificate to various persons including the first respondent and the same is marked at Ex.P53. The relevant entry for issuance of caste certificate in favour of the first respondent is marked at Ex.P53(a). In paragraph-5 of his deposition, PW3 has deposed thus:-

> "It is true that the caste viz., "(Hindu) Valmiki" is not mentioned in Part VI of the list of scheduled castes and scheduled tribes (vide Ex.P-54). However, I volunteer that the said list is amended in the year 1991 and the caste "Valmiki" is also inserted. Though Hindu Valmiki is not found in the list of scheduled tribes, generally the Tahsildars, including me, will mention as (Hindu) Valmiki while issuing caste certicate. I submit that "Hindu" denotes religion and "Valmiki" denotes caste. While issuing the caste certificate we do not enquire in respect of religion, but we only enquiry in respect of caste. The caste certificate in Form No.D-Ex.P-10 is issued by me on the basis of Constitution (Scheduled Tribe) Order, 1950-Part-VI, Item-38"

Thus, PW3 is of the firm opinion that the word 'Hindu' denotes religion and the word 'valmiki' denotes caste. He has also-mentioned that '(Hindu) valmiki' is not found in the list of Scheduled Tribes, but generally the Tahsildars, including PW3 will mention as '(Hindu) valmiki' and will issue caste certificate.

From the above, it is amply clear that the issuing authority himself has clarified that the caste of the first respondent is 'valmiki' and he belongs to 'Hindu' religion and as per usual practice, the caste certificates are issued as '(Hindu) valmiki', showing the name of the religion as well as the caste of the particular person belongs. It is not in dispute that 'valmiki' caste is included in Constitution (Scheduled Tribes) Order, 1950 w.e.f. 19.4.1991. Prior to the amendment, the word 'valmiki' was not included under Item No.38 of the Constitution (Scheduled Tribes) Order, 1950. As aforementioned, in the nomination paper, the first respondent has specified that his caste is 'valmiki' and that he belongs to Schedule Tribe.

19. In this context, the argument of Sri Nanjundareddy, learned advocate appearing for the first respondent that the word 'Hindu' denotes religion and not caste, deserves to be accepted, more particularly, when the word 'Hindu' is mentioned in brackets i.e., the same is separated by brackets. More over, the Tahsildar who issued the caste certificate himself has specified that the 'Hindu' denotes religion and not the caste and whereas the word 'valmiki' denotes caste.

20. The Returning Officer-PW.2 in his cross- examination has admitted as under:-

> "I am now seeking Ex.P43, the caste certificate of R1 viz., S.Pakkirappa. It is true that the word "Hindu" found in brackeis in the document at Ex-P10,- the - portion of which is marked at EX.P43 is the name of Religion. It is also true that the following word "valmiki" is the name of the case.

The aforementioned admission also clarifies that the Returning Officer who accepted the nomination paper including the caste certificate, is of the firm conclusion that the word 'Hindu' found in the brackets in the caste certificate at EX.P10 is the name of religion and the following word 'valmiki' is the name of the caste.

From the aforementioned material it is clear that, both issuing authority as well as the accepting authority in respect caste certificate, are of the firm opinion that the word 'Hindu' which is mentioned in bracket denotes religion and not caste and the word 'valmiki' is the name of the caste to which first respondent belongs to.

In addition to the above, it is relevant to note other materials on record in respect of the caste certificate of the first respondent. EX.P51 is the Transfer Certificate issued in favour of the first respondent by the school in which he has studied up to the year 1971. The said Transfer Certificate is prepared on the basis of the entries found in the school records. Said entries were made in the school records at an undisputed point of time i.e., prior to 1971 during the studies of the first respondent in primary classes. Ex.P51, the Transfer Certificate reveals the name of the caste of the first respondent as Scheduled Tribe and his religion is 'Hindu' and the

sub-caste is respondent is 'nayakaru (valmiki)'. Thus, as far back as in the year 1971 itself, the first respondent's caste is shown as 'Nayaka (valmiki)' and that he belongs to Scheduled Tribe as also the religion of the first respondent is 'Hindu'. It is relevant to note that EX.P51-Transfer Certificate of the first respondent is not questioned by the petitioner by adducing the evidence of the school authorities who have issued such certificate. Even the genuineness of the said certificate is not challenged in the cross- examination of the first respondent by the petitioner. Though certain questions are asked in paragraph-2 of the deposition of PW3, the same would not relate to the challenge to the validity of the Transfer Certificate. The said certificate was produced by the Tahsildar before this Court.

21. EX.P52 is the caste certificate issued in favour of the first respondent's son by name S.Mruthyunjaya. The name of the caste of Mruthyunjaya is shown as 'valmiki' in his caste certificate and that he belongs to Scheduled Tribe as per Constitution (Scheduled Tribes) Order, 1950.

From the aforementioned material, it is amply clear that the first respondent belongs to Scheduled Tribe as he belongs to 'valmiki' caste and the religion of the first respondent is 'Hindu'.

22. Petitioner's counsel relied upon the judgments of the Apex Court in the case of **R.Palanimuthu vs. Returning Officer & others, reported in 1984 (Supp) SCC 77**, in the case of **State of Maharashtra vs. Milind & others, reported in AIR 2001 SC 393** and also in the case of **Bhaiya Lal vs. Harikishan Singh & others, reported in AIR 1965 SC 1557** to contend that '(Hindu)valmiki' caste does not come under Scheduled Tribe and therefore the first respondent's nomination paper is improperly -accepted by Returning Officer for contesting the parliamentary elections from the reserved constituency. The sum and substance of the dictum laid down by the Apex Court in the aforementioned judgments is that in order to determine whether or not a particular caste is a Scheduled Caste or Scheduled Tribe within the meaning of Articles 341 and 342 of the Constitution of India, one has to look at the notification issued by the President in that behalf. Only if the caste to which the person belongs is found in the presidential list, then only such person comes within Scheduled Caste/Scheduled Tribe Category. It is not open for the Courts to interpret the presidential order or substitute or add the caste found in the notification issued by the President.

23. The Apex Court in the case of **State of Maharashtra vs. Milind & others** (cited supra), has concluded thus:-

"35. In the light of what is stated above, the following positions emerge:-

1. It is not at all permissible to hold any enquiry or let in any evidence to decide or declare that any tribe or tribal community or part of or group within any tribe or tribal community is included in the general name even though it is not specifically mentioned in the concerned Entry in the Constitution (Scheduled Tribes) Order, 1950.
2. The Scheduled Tribes Order must be read as it is. It is not even permissible to say that a tribe, subtribe, part of or group of any tribe or tribal community is synonymous to the one mentioned in the Scheduled Tribes Order if they are not so specifically mentioned in it.
3. A notification issued under Clause (1) of Article 342, specifying Scheduled Tribes, can be amended only by law to be made by the Parliament. In other words, any tribe or tribal community or part of or group within any tribe can be included or excluded from the list of Scheduled Tribes issued under Clause (1) of Article 342 only by the Parliament by law and by no other authority.
4. It is not open to State Governments or Courts or tribunals or any other authority to modify, amend or alter the list of Scheduled Tribes specified in the notification issued under Clause (1) of Article 342. "

From the above, it is clear that it is not at all permissible to hold any enquiry or let in any evidence to decide or declare that any tribe or tribal community or part of or group within any tribe or tribal community is included in the general name even though it is not specifically mentioned in the concerned Entry in the Constitution (Scheduled Tribes) Order, 1950.

24. Based on the aforesaid judgments, Sri Shivaraj Arali, learned counsel for the petitioner submits that it is not open for this Court to treat 'Hindu' as a religion instead of treating it as caste, particularly, when it is proved by the petitioner that the first respondent belongs to '(Hindu) valmiki' caste.

25. In this context, it is also relevant to note the observations made in paragraph-11 of the judgment in the case of **Sobha Hymavathi Devi vs. Setti Gangadhara Swamy & others, reported in (2005)2 scc 244,** which read thus:-

"11. What remains is the argument based on the certificates allegedly issued under the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of

> Issue of Community Certificates Act, 1993. The High Court has not accepted the certificates as binding for the reason that the evidence showed that the certificates were issued based on the influence exercised by the appellant as a member of the Legislative Assembly, one after another, immediately on an application being made and without any due or proper inquiry. We are impressed by the reasons given by the High Court for not acting on these certificates. That apart, a reference to Section 3 of the Act would indicate that a certificate thereunder, in so far as it relates to elections, is confined in its validity to elections to local authorities and cooperative institutions. **It does not embrace an election to the Legislative Assembly or to Parliament. Therefore, in any view of the matter, it cannot be said that the High Court, exercising jurisdiction under the Representation of the People Act in an election petition is precluded from going into the question of status of a candidate or proceeding to make an independent inquiry into that question in spite of the production of a certificate under the Act. At best, such a certificate could be used in evidence and its evidentiary value will have to be assessed in the light of the other evidence let in, in an election petition. Therefore, nothing turns on the factum of a certificate being issued by the authority concerned under the Act of 1993.** We are also satisfied as the High Court was satisfied, that no proper inquiry preceded the issuance of such a certificate and such a certificate was issued merely on the say-so of the appellant. We have, therefore, no hesitation in overruling this argument raised on behalf of the appellant. "
>
> (emphesis supplied).

From the above, it is clear that this Court. while exercising jurisdiction under the provisions of the Act in an election petition, is not precluded from going into the question of status of a candidate or proceeding to make an independent inquiry into that question in spite of the production of such certificate.

26. In this context, it is also relevant to note that in Constitution (Scheduled Castes) Order, 1950, the President has specified that 'Hindu' is a religion like any other religions such as sikh religion, buddhist religion, etc. The Constitution (Scheduled Castes) Order, 1950 is issued in exercise of the powers contained under Articles 341 and 342 of the Constitution as aforementioned. It is also relevant to note that in Article 25 of the Constitution of India, the religions such as Hindu, Sikh, Jaina, Buddhist are recognized.

27. This Court while deciding EP.Nos.4 and 11/2009 relating to Bellary Parliamentary Elections had an occasion to consider the very question as to whether the person belonging to '(Hindu) valmiki' caste comes under Scheduled Tribe or not. This Court in the said matter has recorded a finding that elected representative belongs to 'valmiki' though his caste certificate shows that he belongs to '(Hindu) valmiki'. It is also observed therein that though '(Hindu) valmiki' is not the caste coming within the Scheduled Tribe Category as per the Presidential Order, the caste 'valmiki'is a Scheduled Tribe.

28. Looking to the totality of the facts and circumstances, more particularly evidence of PW.3, who has issued the caste certificate and the evidence of PW.2, who has accepted the caste certificate as well as nomination papers of respondent No.1, it is clear that the first respondent belongs to 'valmiki'caste and his religion is 'Hindu' and therefore he comes under Scheduled Tribe Category. Even from the Transfer Certificate issued in favour of the first respondent based on the entries made in the school records at an undisputed point of time, i.e., prior to 1971, it is clear that the first respondent's religion is 'Hindu' and he belongs to 'Nayaka' (valmiki) caste which comes under Scheduled Tribe. Thus, on an independent evaluation of the material on record, as observed by the Apex Court in **Sobha Hymavathi Devi's Case** (cited supra), this Court holds that the first respondent belongs to 'valmiki' caste which comes under Scheduled Tribe.

29. **Re. Issue Nos.2 and 3:** For the sake of convenience and as Issue Nos.2 and 3 are inter-related, they are taken up together.

It is the case of the petitioner that the first respondent was not issued Form B by BJP and consequently BJP symbol allotted to him is wholly illegal; since the first respondent is not candidate contesting from BJP, he should have been treated as an independent candidate (i.e., not sponsored by any of the national parties.) and therefore his nomination should have been proposed by 10 voters of the constituency. It is also the case of the petitioner that the nomination was wrongly withdrawn by the official candidate of BJP i.e., by Sri Raja Amareshwar Naik, on the date which was not fixed for withdrawal of nomination paper, but was withdrawn earlier to the date stipulated for withdrawal of nomination paper.

30. In this context, it is better to note certain dates prescribed by the Returning Officer for conduct of elections under Section 30 of the Act. The relevant dates are as under:-

4.4.2009	:	Last date of submission of nominations.
6.4.2009	:	Date of scrutiny
8.4.2009	:	Last date for withdrawal of nomination.
24.4.2009	:	Date of polling
16.5.2009	:	Declaration of results.

31. Section 37 of the Act refers to withdrawal of candidature. The same reads thus:-

"37. Withdrawal of candidature-(1) Any candidate may withdraw his candidature by a notice in writing which shall contain such particulars as may be prescribed and shall be subscribed by him and delivered before three O'clock in the afternoon on the day fixed under clause (c) of Section 30 to the returning officer either by such candidate, in person or by his proposer or election agent who has been authorised in this behalf in writing by such candidate.

(2) No person who has given a notice of withdrawal of his candidature under subsection (1) shall be allowed to cancel the notice.

(3) The returning officer shall, on being satisfied as to the genuineness of a notice or withdrawal and the identity of the person delivering it under sub-section (1), cause the notice to be affixed in some conspicuous place in his office. "

Section 30 (c) of the Act refers to the appointment of last date for withdrawal of candidature, which reads thus.-

"Section 30- xxx xxx xxx

(a) xxx xxx

(b) xxx xxx

(c) the last date for the withdrawal of candidatures, which shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday. "

The combined and homogeneous reading of both the aforementioned provisions makes it clear that the nomination can be withdrawn by a candidate by a notice in writing before 3.00 O'clock in the afternoon on the day fixed under clause (c) of Section 30 to the Returning Officer.

Clause (c) of Section 30 further makes it clear that the last date for withdrawal of candidature shall be the second day after the date for scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday, which means the date fixed for withdrawal of nomination paper is the last date fixed for withdrawal of nomination and not the only day fixed for withdrawal of nomination. As aforementioned, the last date fixed for withdrawal of nomination is 8.4.2009. Therefore, it is open for a candidate to withdraw his nomination any day prior to 3.00 p.m. on 8.4.2009. He may withdraw the nomination on 6.4.2009, or on 7.4.2009 also. A candidate need not wait till the last date fixed for withdrawal of nomination paper. It can be stated that Section 37 of the Act prescribes only the outer limit of time for withdrawal of nomination. Therefore, Sri Raja Amareshwar Naik is justified in withdrawing his nomination paper prior to the date fixed for withdrawal of nomination paper. He has withdrawn his nomination paper on the date of scrutiny of nomination papers, i.e., on 6.4.2009 and therefore the contention of the petitioner in that regard is rejected.

32. The Election Symbols (Reservation and Allotment) Order, 1968 provides for specification, reservation, choice and allotment of symbols at elections in Parliamentary and this Assembly Constituencies. The said Order is issued by the Election Commission of India in exercise of powers conferred under Article 324 of Constitution of India r/w. Section 29 of the Act and Rules 5 and 10 of the Conduct of Election Rules, 1961. Paragraph-13 of '1968 Order' specifies as to when a candidate shall be deemed to be set up by a political party. Paragraph- 13 '1968 Order' reads thus:-

"13. When a candidate shall be deemed to be set up by a political party- For the purposes of an election from any parliamentary or assembly constituency to which this Order applies/ a candidate shall be deemed to be set up by a political party in any such parliamentary or assembly constituency/ if, and only if, -

(a) the candidate has made the prescribed declaration to this effect in his nomination paper;

(aa) the candidate is a member of that political party and his name is borne on the rolls of members of the party;

(b) a notice by the political party in writing, in Form B, to that effect has, not later than 3 p.m. on the last date for making nominations, been delivered to the Returning Officer of the constituency;

(c) the said notice in Form B is signed by the President, the Secretary or any other office bearer of the party, and the President, Secretary or such other office bearer sending the notice has been authorised by the party to send such notice;

(d) the name and specimen signature of such authorised person are communicated by the party, in Form A, to the Returning Officer of the constituency and to the Chief Electoral Officer of the State or Union Territory concerned, not later than 3 p.m. on the last date for making nominations; and

(e) Forms A and B are signed, in ink only, by the said office bearer or person authorised by the party:

Provided that no fascimile signature or signature by means of rubber stamp, etc., of any such office bearer or authorised person shall be accepted and no form transmitted by fax shall be accepted. "

Paragraph-13A of '1968 Order' refers to the substitution of a candidate by a political party and the same reads thus:-

"13A. Substitution of a candidate by a political party- For the removal of any doubt, it is hereby clarified that a political party which has given a notice in Form B under paragraph 13 in favour of a candidate may rescind that notice and may give a revised notice in Form B in favour of another candidate for the constituency:

Provided that the revised notice in Form B, clearly indicating therein that the earlier notice in Form B has been rescinded, reaches the Returning Officer of the constituency, not later than 3 p.m. on the last date for making nominations, and the said revised notice in Form B is signed by the authorised person referred to in clause (d) of paragraph 13;

Provided further that in case more than one notice in Form B is received by the Returning Officer in respect of two or more candidates, and the political party fails to indicate in such notices in Form B that the earlier notice or notices in Form B, has or have been rescinded, the Returning Officer shall accept the notice in Form B in respect of the candidate whose nomination paper was first delivered to him and the remaining candidate or candidates in respect of whom also notice or notices in Form B has or have been received by him, shall not be treated as candidates set up by such political party, "

From the above, it is clear that Form B is part and parcel of paragraphs-13 and 13A of '1968 Order', Form B cannot be separated from paragraphs-13 and 13A. Form B is nothing but the notice given by the authorised person of the political party as to name of the candidate set up by the said political party. The relevant portion of Form B reads thus:-

Name of the Constituency	Name of the approved candidate	Father's/ Mother's/ Husband's name of approved candidate	Postal address of approved candidate	Name of the substitute candidate who will step-in on the approved candidate's nomination being rejected on scrutiny or on his withdrawing from the contest candidate if substitute candidate is still a contesting candidate	Father's/ Mother's/ Husband's name of substitute candidate	Postal address of substitute candidate
1	2	3	4	5	6	7

Form B prescribed by the State Government under the Rules becomes part of the Rule itself, which the State Government is competent to frame. Thus, the contention of Sri Shivaraj Arali, learned advocate appearing on behalf of the petitioner that Form prescribed requiring the furnishing of information on various particulars and matters referred to therein, more particularly with regard to the requirement of providing the name of substitute candidate who will step-in on the approved candidate's nomination being rejected on scrutiny or on his withdrawing from the contest is beyond the rule-making power of the Election Commission, is to be rejected. Since Form B is part and parcel of paragraphs-13 and 13A of '1968 Order', the same should be read along with the aforementioned paragraphs and therefore Form B also is part and parcel of '1968 Order'.

33. Form B submitted by Sri Raja Amareshwar Naik is marked at Ex.P14. Though the said Form B is issued in favour of Sri Raja Amareshwar Naik, BJP has specifically mentioned in the said Form B itself, the name of respondent No.1 in Column No.5 of Form B as a substitute candidate. Father's name of substitute candidate and his postal address are also mentioned in Column Nos.6 and 7 respectively of Form B. Thus, it is amply clear from Form B itself that the first respondent is a substitute candidate who will step-in on the approved candidate's nomination being withdrawn by him from contest. Copy of nomination of paper of respondent No.1 is produced and marked at Ex.P9. The endorsement of District Election Officer made on the check memo relating to scrutiny of nomination papers of respondent No.1 is marked at Ex.P12. In the said endorsement at EX.P12, the Election Officer has clearly mentioned that Form-B is delivered in time. He has also added that first respondent is shown as a substitute candidate and the main candidate is Sri Raja Amareshwar Naik. Thus, at the time of scrutiny of nomination itself, the Election Officer has verified as to whether the valid Form B is issued in favour of the first respondent or not and only on verification he has made an endorsement as per EX.P12 that the first respondent is shown as a substitute candidate and the main candidate is Sri Raja Amareshwar Naik. As aforementioned, the scrutiny of nomination papers was made on 6.4.2009. On the very day, i.e., on 6.4.2009 at 12.20 p.m. itself, Sri Raja Amareshwar Naik has withdrawn his nomination by giving a notice to the Returning Officer as is clear from Ex.P26. Immediately after withdrawal of nomination paper by Raja Amareswar Naik at 12.20 p.m. on 6.4.2009, the nomination paper of the first respondent is accepted on 6.4.2009 by endorsing as per Ex.P9(a), which is already extracted in paragraph-14.

From the above, it is clear that since the main candidate of BJP viz., Sri Raja Amareshwar Naik has withdrawn his candidature after scrutiny of his nomination paper, the candidature of the substitute candidate, i.e., the first respondent is considered and he is declared to have been set up by BJP and consequently the nomination paper of the first respondent is rightly accepted treating him as a candidate of BJP.

34. Since the nomination paper of the first respondent is validly accepted by the Returning Officer treating him as the official candidate of BJP by way of substitution, the argument of the petitioner's counsel that the nomination of the first respondent ought to have been rejected since the same was not supported by 10 voters of the constituency cannot be accepted. Support of 10 voters of the constituencies is necessary only if the candidate contests as an independent candidate and not as an official candidate of any recognized political party as is clear from proviso to Section 33(1) of the Act.

35. In view of the above, this Court concludes that the first respondent was issued with Form B by BJP and consequently there is no illegality committed by the Returning officer in allotting BJP symbol in favour of the first respondent. Since the first respondent is the official candidate of BJP, there is no need that his nomination should be proposed by 10 voters of the constituency.

36. **Re. Issue Nos.4 and 5:** In view of the findings on Issue Nos.1, 2 and 3 supra, no relief can be granted either in favour of petitioner or in favour of respondent No.2 (recrimination petitioner). As aforementioned, second respondent-recrimination petitioner has not even entered the witness box and has not supported his case. Be that as it may, this Court does not find any error in the procedure adopted by the concerned authorities. The caste certificate is validly issued in favour of the first respondent, inasmuch as the first respondent is belonging to Scheduled Tribe and consequently he was qualified to contest in the election in question. So also, the first respondent, though was initially mentioned as substitute candidate in Form B, he is rightly treated to be the official candidate of BJP subsequent to withdrawal of candidature by Sri Raja Amareshwar Naik, who was the main candidate of BJP. On the date of scrutiny itself i.e., on 6.4.2009, the nomination of Sri Raja Amareshwar Naik is withdrawn at 12.20 p.m. and consequently on the very day, the nomination of the first respondent was accepted and was permitted to contest in the election as a candidate of BJP by allotting BJP symbol. The entire process adopted by the Returning Officer is just and legal. Hence, the petitioner as well as the second respondent (recrimination petitioner) are not entitled to any relief. Accordingly, the following order is made:-

Election petition is **dismissed.** Recrimination petition is also **dismissed.**

Sd/-

JUDGE

By Order,

R.K. SRIVASTAVA

PRINCIPAL SECRETARY

ELECTION COMMISSION OF INDIA

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